

Robert J. Katzenstein
 Smith, Katzenstein, & Furlow
 The Corporate Plaza
 800 Delaware Ave
 P.O. Box 410
 Wilmington, DE 19899

D STATES DISTRICT COURT
 DISTRICT OF DELAWARE

FILED
 CLERK U.S. DISTRICT COURT
 DISTRICT OF DELAWARE

LEARY ENTERPRISES, INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 04-1238 JJF
	:	
THE TRAVELERS INDEMNITY COMPANY,	:	
	:	
Defendant.	:	

MEMORANDUM ORDER

Pending before me is a Motion To Stay (D.I. 11) filed by Plaintiff Leary Enterprises, Inc. ("Leary"). Defendant Travelers Indemnity Company opposes the motion.

A decision of whether or not to stay an action is committed to the discretion of the Court. The circumstances of this case lead me to conclude that a stay is warranted based on the pending criminal matter filed by the U.S. Government, which involves the same fire at Plaintiff's business, the Yankee restaurant.

Critical to my decision is that the two individuals affiliated with Plaintiff be permitted to exercise their Fifth Amendment right against self-incrimination as part of their defense to the pending criminal charges. The criminal trial is scheduled to commence on April 4, 2005. Once the trial is complete, Defendant may seek relief from the stay.

NOW THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Motion To Stay (D.I. 11) is GRANTED.

February 23, 2005
 DATE

RECEIVED

FEB 28 2005

RJK

Joseph J. Arnay
 UNITED STATES DISTRICT JUDGE